

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In the Matter	
of	Case No.
	00-B-41065
RANDALL'S ISLAND FAMILY GOLF	00-B-41188
CENTER, INC.	
Debtor.	

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July 5, 2000

United States Custom House
One Bowling Green
New York, New York 10004

L/S Mtn. Re: Sang-Ho Lee Lorenzo V. DeLillo, Esq.,
Atty.

B E F O R E:

HON. STUART M. BERNSTEIN,
Bankruptcy Judge.

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1 RANDALL'S ISLAND FAMILY GOLF CENTER, INC.

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3 A P P E A R A N C E S :

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5 FRIED, FRANK, HARRIS, SHRIVER & JACOBSON,

6 ESQS.

7 Attorneys for Debtors

8 One New York Plaza

9 New York, New York 10004

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11 BY: GARY L. KAPLAN, Esq., of Counsel

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14 MANOUSSOS & ASSOCIATES

15 Attorneys for Sang-Ho Lee

16 7 12th Street

17 Garden City, New York 11530

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19 BY: LORENZO DeLILLO, ESQ., of Counsel

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1 RANDALL'S ISLAND FAMILY GOLF CENTER, INC.

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3 A P P E A R A N C E S (Continued) :

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5 BRUNO GERBINO & MACCHIA, LLP

6 Attorneys for Michael Huang

7 445 Broad Hollow Road, Ste. 220

8 Melville, New York 11747

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10 BY: MARCY E. PELL, ESQ., of Counsel

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3 P R O C E E D I N G S

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5 MR. DeLILLO: Good morning, Your
6 Honor. Lorenzo DeLillo for Movant Sang Ho Lee.

7 Very basically this is a motion to
8 modify the automatic stay that was imposed on my
9 client's civil trial in State Court. We ask that
10 we are -- be allowed to proceed against the
11 insurance carrier that the Debtor Defendants held.

12 THE COURT: Go ahead.

13 MR. DeLILLO: I was just served with
14 a cross motion -- before that Your Honor, let me
15 just state that subsequent to the filing of my
16 motion I had an opportunity to contact the
17 attorney who is representing the Debtors and we
18 have entered into a stipulation allowing for the
19 modification of the automatic stay.

20 THE COURT: What's this cross
21 motion?

22 MS. PELL: I have a courtesy copy of
23 it. I just filed it this morning for the Court.

24 THE COURT: Who are you?

25 MS. PELL: I represent Michael Huang

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1 RANDALL'S ISLAND FAMILY GOLF CENTER, INC.
2 one of the Defendants in the Queens County civil
3 action.

4 THE COURT: When did you file your
5 cross motion?

6 MS. PELL: We filed it this morning
7 in Court; we served it, I believe it was Friday it
8 was served.

9 THE COURT: That's not sufficient
10 service so I won't even consider it. We don't
11 have cross motions in federal practice like they
12 do under the CPLR.

13 Let me see your stipulations. Are
14 these the usual provisions where they will look to
15 the policy?

16 MR. KAPLAN: Just going to look to
17 the policy, to the extent -- they will waive to
18 the extent there is any --

19 THE COURT: Well, what is the nature
20 of your motion?

21 MS. PELL: We have a cross-claim
22 against the golf course. We had asked that the
23 stay be lifted with respect to the cross-claim
24 also. We had discussed with the Plaintiff's
25 attorney that he limit anything he goes after from

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2 our client to the insurance proceeds.

3 MR. DeLILLO: I have no problem
4 stipulating to modifying the stay as far as the
5 cross-claim; however, I do have an issue as far as
6 limiting my damages to the Defendant's policy.

7 THE COURT: Is this an individual
8 Defendant?

9 MR. DeLILLO: Yes.

10 MS. PELL: Yes.

11 THE COURT: Why would he limit
12 damages?

13 MS. PELL: Well, our only concern is
14 if he is going to limit his damages with respect
15 to the golf course to their insurance proceeds
16 that prejudices my client, puts my client on the
17 hook.

18 THE COURT: Maybe he has some rights
19 under 108. I don't know what substantive rights
20 he would have. It's like a settlement, I guess.

21 MS. PELL: My only problem is I
22 don't want -- if it's an Order of the Court that's
23 one thing. As far as entering into a stipulation,
24 I don't want to stipulate to a lift stay if that
25 leaves my client open to have personal assets open

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1 RANDALL'S ISLAND FAMILY GOLF CENTER, INC.
2 if he is interested in insurance proceeds of the
3 golf course.

4 THE COURT: You have a cross-claim
5 against the golf course?

6 MS. PELL: We do.

7 THE COURT: I suppose that -- I
8 don't mean to speak for the golf course or the
9 Debtor, but they would probably agree to relief
10 from the stay to the extent that you limit any
11 recovery to the insurance policy also.

12 As between you and the Plaintiff,
13 one, I can't imagine why the Plaintiff would agree
14 to limit his recovery and, two, I don't know why
15 it's any of my concern.

16 MS. PELL: I understand that. If
17 it's by an Order of the Court that's one thing.
18 As far as me stipulating to have the stay lifted
19 leaving my client open to prejudice, I can't sign
20 a stip. If it's a Court Order, that's one thing.

21 THE COURT: Why don't you get a
22 return date for your motion, you will have to pay,
23 you have to pay a filing fee. Why don't you start
24 over, in essence pay the filing fee and make a
25 motion for relief from the automatic stay,

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1 RANDALL'S ISLAND FAMILY GOLF CENTER, INC.
2 vis-a-vis the cross-claim. If you don't want to
3 enter into a stipulation, they probably won't
4 defend the motion assuming it says the right
5 things and you will get your Order, I guess. Then
6 you will have to deal with the claim.

7 MR. DeLILLO: With all due respect,
8 Your Honor, my trial in State Court has been
9 marked final for tomorrow, July 6. If we have an
10 adjournment or a rehearing I will lose my place on
11 the trial calendar. My client will be prejudiced.

12 THE COURT: What does that have to
13 do with Bankruptcy Court? I have just signed the
14 Order that you have given me. I guess she will
15 ask for an adjournment on the theory that she
16 needs time to make some motion in Bankruptcy Court
17 and you will deal with it before the State Court
18 judge, that's really not my concern.

19 MR. DeLILLO: I understand.

20 THE COURT: Okay, I have signed your
21 stipulation and Order. Thank you.

22 MR. DeLILLO: Thank you, Your Honor.

23 MS. PELL: Thank you.

24 MR. KAPLAN: Thank you, Your Honor.

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C E R T I F I C A T E

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STATE OF NEW YORK)
) ss.:
 COUNTY OF NEW YORK)

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I, JANINE FIGLIOZZI, a Shorthand

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Reporter and Notary Public within and for

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the State of New York, do hereby certify:

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I reported the proceedings in the

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within-entitled matter, and that the within

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transcript is a true record of such

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proceedings.

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I further certify that I am not

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related, by blood or marriage, to any of

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the parties in this matter and that I am

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in no way interested in the outcome of this

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matter.

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IN WITNESS WHEREOF, I have hereunto

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set my hand this _____day of _____,

21

2000.

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JANINE FIGLIOZZI

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